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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,138	10/27/2003	Zinaida Boltan		6464

7590
Boltan, Zinaida
32250 Cannon Road
Solon, OH 44139

EXAMINER

CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
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3600

MAIL DATE	DELIVERY MODE
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01/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/695,138

Applicant(s)

BOLTAN ET AL.

Examiner

ROBERT J. CANFIELD

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims.

- 4) ☒ Claim(s) 10 and 12-22 is/are pending in the application.
- 4a) Of the above claim(s) 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10 and 13-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

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1. Applicant's election without traverse of Species IV, the embodiment having a telescopic hand held lever, in the reply filed on 08/10/07 is acknowledged. Applicant states that claims 10 and 12-20 are readable thereon. Claim 12 is considered drawn to the swivel block of Species III and is withdrawn from consideration.

2. Again note that NONE of the preliminary amendments to the abstract, specification, claims, or drawings have been entered as they have failed to comply with the manner in making amendments set forth in 37 CFR 1.121 (copy previously attached for applicant's convenience).

3. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450.

4. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

5. The drawings are objected to because each of figures 3D, 3I, 4C and 4F require bracketing "}". Also reference sign 24a is missing a lead line in each of figures 3G, GK and 3L. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the at least two walls between each hard pole (claims 13) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

7. The abstract of the disclosure is objected to because of its length. Correction is required. See MPEP § 608.01(b).

8. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

9. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;

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- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 10, 14, 16, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,449,894 to Dial.

Dial provides an umbrella tent having a central support 2 which is capable of functioning as hand held, a frame having outwardly and downwardly extending arms 6 connected to telescopic hard poles 29 by "special appliances" 22, a soft material roof 28, an extension pole 27 and walls as described at column 2, lines 104-112. Since element 2 slides into the end of element 27 together than can broadly be considered interconnected telescoping section for claim 19.

12. Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,059,463 to Kemp.

Kemp provides arms 60, roof 10, telescopic support 12 and "soft pulls" 66.

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13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 13, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,449,894 to Dial.

Dial provides each of the elements of the claims as noted above except for walls shape and arrangement. Column 2, lines 104-112 states that suitable walls may be used which either partially or entirely enclose the tent. This would suggest to one of ordinary skill in the art that triangular and or rectangular wall panels may be used in any known arrangements such extending between the poles or two panels at the corner. The particular claimed wall shapes and arrangements are known and considered nothing other than obvious choices of design.

15. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,449,894 to Dial in view of U.S. Patent 4,033,366 to Forget.

Dial provides each of the elements of the claim except that the support 2 is detachable from the frame assembly.

Forget teaches that at the time of the invention it was known that the central support of an umbrella tent may be detachable from the umbrella frame assembly as shown and described with respect to figure 6.

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It would have been obvious at the time of the invention to one having ordinary skill in the art that the tent of Dial could have been modified as taught by Forget to have support 2 detachable from the frame assembly. It would have been obvious so that the central support could be removed and provide an open space within the tent.

16. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,449,894 to Dial in view of U.S. Patent 4,971,090 to Uhl.

Dial provides each of the elements of the claim except that the central support is comprised of two or more telescopic sections.

Uhl teaches that at the time of the invention it was known that the central support or shaft 6a of an umbrella/tent like structure may be formed of telescoping section (column 2, line 37) so as to minimize its length for storage.

It would have been obvious at the time of the invention that the support 2 and extension 27 of Dial could have been replaced or modified to comprise telescopic sections to provide required length. It would have been nothing other than obvious substitution of known mechanical equivalents.

17. Applicant is warned to be careful when amending the application not to include any new matter. New matter will NOT be permitted. Note that the drawings submitted 04/09/04 have NOT been entered but appear to contain new matter.

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18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

19. Any inquiry concerning this communication should be directed to ROBERT J. CANFIELD at telephone number (571)272-6840.

Robert J Canfield
SPE
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A handwritten signature in black ink, appearing to be 'RJC', written over the printed name and title.